

be reported in like manner no later than the end of the calendar week following the week in which the tobacco was acquired. The report shall show:

(2) For purchases at auction for each warehouse;

(i) USDA registration number (warehouse code),

(ii) Name and address of warehouse,

(iii) Gross pounds originally billed to the buyer,

(iv) Gross pounds billed to the buyer for which payment was made,

(v) Gross pounds from the company correction account deducted for short lots and short weights and returned lots, and

(vi) Gross pounds from the company correction account added for long lots and long weights.

(3) For purchases at nonauction;

(i) Name and address of seller (dealer or farmer),

(ii) Seller's number (dealer's registration number or farm number, including State and county code), and

(iii) Pounds purchased.

§ 723.406 Provisions applicable to damaged tobacco or to purchases of tobacco from processors or manufacturers.

(a) *Damaged tobacco.* Any dealer, warehouse operator, or other person who intends to purchase damaged tobacco shall notify the State FSA office where the warehouse operator or dealer is registered or should be registered. Such report must be made at least 2 business days in advance of the purchase so as to allow for inspection arrangements to be made. The inspection shall be conducted by an FSA representative and no purchase credit shall be allowed the buyer for the quantity determined to be damaged tobacco. Damaged tobacco may be disposed of without incurring a penalty only if the tobacco is destroyed and the destruction is witnessed by an FSA representative or the tobacco is sold directly to a processor or manufacturer and such sale is reported to the same State FSA office. Any tobacco not disposed of in that manner shall be deemed to have been a marketing of excess tobacco and will be subject to a penalty at the full penalty rate for the quantity of tobacco involved.

(b) *Purchase from processor or manufacturer.* Any tobacco purchased by a dealer, warehouse operator, or other person from a processor or manufacturer shall be considered to be tobacco in the form not normally marketed by producers unless the purchaser obtains from the processor or manufacturer a certification stating that such purchased tobacco is in the form normally marketed by producers. The certification by the processor or manufacturer shall be on a form prescribed by the Deputy Administrator certifying to FSA that the tobacco involved in the transfer of ownership is in the form normally marketed by producers. No purchase credit shall be given to a dealer, warehouse operator, or other person on MQ-79, Dealer's Record Book, for any purchase of tobacco which is not in the form normally marketed by producers. Tobacco which meets the definition of pickings as defined in this part shall be considered tobacco in the form not normally marketed by producers.

(c) *Report by dealer or warehouse operator.* Any dealer, warehouse operator or other person who plans to purchase tobacco in the form normally marketed by producers from a processor or manufacturer shall, prior to purchase, report such plans to the State FSA office issuing form MQ-79, Dealer's Record Book, to such person. Such report shall be made timely so that a representative of FSA may inspect the tobacco to determine its marketable value and whether the tobacco is in the form normally marketed by producers. Any tobacco purchased from processors or manufacturers before such plans are reported to the state FSA office and before the tobacco is inspected by an FSA representative or an inspection is declined by an FSA representative shall be deemed excess tobacco and the penalty at the full rate shall be due.

(d) *Report by processor or manufacturer.* Each processor or manufacturer shall make a report to the Director, showing the quantity of tobacco sold in the form not normally marketed by producers to dealers and buyers other than processor or manufacturers. The report shall be filed no later than the end of the calendar week following the week in which such tobacco was sold

and shall show the name of the purchaser, the date of the sale and the pounds sold.

(e) *Dealer records and reports.* (1) Any dealer, warehouse operator or other persons who purchased tobacco classified as not in the form normally marketed by producers shall keep such records as will enable such person to report to the State FSA office the following:

(i) Name of seller, pounds purchased, and date of purchase.

(ii) The disposition of such tobacco including name of buyer, pounds sold, date of sale,

(2) Upon request by the State FSA office such person shall provide for the inspection and weighting of the tobacco to be witnessed by an FSA representative.

[55 FR 39914, Oct. 1, 1990, as amended at 56 FR 21443, May 9, 1991; 57 FR 43582, Sept. 21, 1992]

§ 723.407 Cigar tobacco buyer's records and reports.

(a) *This section is applicable to buyers of cigar tobacco—(1) Definition of cigar buyer.* With respect to this section, a buyer is any person who buys cigar tobacco including an association or co-operation that receives tobacco from producers for the purpose of:

(i) Selling it for the producers, or

(ii) Placing it under price-support loan through Commodity Credit Corporation.

(2) *Report of buyer's name and address.* Each buyer shall properly execute, detach, and promptly forward to the State FSA office, "Receipt for Buyer's Record" contained in MQ-79 (CF&B), which is issued to the buyer.

(b) *Record of purchases.* A buyer shall keep records which provide the following information for each lot of each kind of tobacco purchased or sold by the buyer, including tobacco obtained from grading tobacco for producers or furnishing curing space, or stripping space:

(1) The name of:

(i) The operator of the farm on which the tobacco was produced; or

(ii) The name and address of the seller, in the case of a sale by a person other than the farm operator.

(2) The identification number of the farm at/from which the tobacco was purchased.

(3) The date of purchase.

(4) The pounds of tobacco purchased.

(5) The gross purchase price.

(6) The amount of penalty.

(7) The amounts remitted for the No Net Cost and Tobacco Marketing Assessments.

(c) *Report of sales.* Each buyer shall maintain records which will show, by kind of tobacco, the disposition of tobacco purchased under paragraph (b) of this section.

(d) The dealer shall remit the producer's and the dealer's share of the No Net Cost and Tobacco Marketing Assessments as provided in part 1464 of this title. The dealer may deduct the producer's share of each assessment from the price paid for the tobacco. The No Net Cost Assessment shall not be collected from a producer who identifies the tobacco for marketing with a marketing card which has a converted penalty rate of 100 percent on the marketing card. A marketing penalty at the full rate shall be collected on the marketings identified by such card. The amount of the No Net Cost and the Tobacco Marketing Assessments which is applicable to tobacco marketed during each marketing year will be the amount per pound which is approved and announced by the Secretary.

(e) *Identification of sale or marketing card memo and buyers records.* Each MQ-76 and each sale memo from an MQ-77 used to identify each sale of tobacco by a producer shall be properly executed by the buyer. The serial number of the MQ-76 marketing card or sale memo from an HQ-77 to identify such tobacco, shall be recorded on the buyer's copy of the MQ-79 (CF&B) and on the check register or check stub for the check written with respect to such tobacco.

(f) *Record and report of purchases of tobacco from producers.* (1) Each buyer shall keep a record and make reports on MQ-79 (CF&B), Buyer's Record, showing by kinds of tobacco purchased by or for such buyer from producers. Such record and report shall show for each sale the sale date, the name of the farm operator, (and the name and address of the person selling the tobacco